

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

	)	Chapter 11
In re:	)	
	)	Case No. 05-44481
DELPHI CORPORATION, <u>et al.</u> ,	)	
	)	Jointly Administered
Debtors.	)	
	)	

**RESPONSE OF SIEMENS PLC (A&D DIVISION) TO DEBTORS' SEVENTEENTH  
OMNIBUS OBJECTION (SUBSTANTIVE) PURSUANT TO 11 U.S.C. SECTION 502(B)  
AND FED. R. BANKR. P. 3007 TO CERTAIN (A) INSUFFICIENTLY DOCUMENTED  
CLAIMS, (B) CLAIMS NOT REFLECTED ON DEBTORS' BOOKS AND RECORDS,  
(C) INSURANCE CLAIM NOT REFLECTED ON DEBTORS' BOOKS AND RECORDS,  
(D) UNTIMELY CLAIMS AND UNTIMELY TAX CLAIMS, AND (E) CLAIMS  
SUBJECT TO MODIFICATION, TAX CLAIMS SUBJECT TO MODIFICATION, AND  
MODIFIED CLAIMS ASSERTING RECLAMATION**

Siemens plc (A&D Division) ("Siemens"), by counsel, for its Response (the "Response") to the Debtors' Seventeenth Omnibus Objection (Substantive) Pursuant to 11 U.S.C. Section 502(b) and Fed. R. Bankr. P. 3007 to Certain (a) Insufficiently Documented Claims, (b) Claims Not Reflected on Debtors' Books and Records, (c) Insurance Claim Not Reflected on Debtors' Books and Records, (d) Untimely Claims and Untimely Tax Claims, and (e) Claims Subject to Modification, Tax Claims Subject to Modification, and Modified Claims Asserting Reclamation (the "Objection"), states as follows:

**STATEMENT OF FACTS**

1. On October 8 and 14, 2005, the above-captioned debtors (the "Debtors") filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York.

2. On or about June 27, 2006, Siemens timely filed a proof of claim in the amount of \$15,307.20 in Case No. 05-44610 (“Claim No. 8673”).<sup>1</sup> Attached to Claim No. 8673 are various supporting invoices that reflect prepetition amounts outstanding to Siemens for goods and services provided by Siemens. A copy of Claim No. 8673 is attached hereto as Exhibit A.

3. On June 15, 2007, the Debtors filed their Objection, which identifies Siemens’ Claim No. 8673 in Exhibit E-1 as a claim subject to modification. Pursuant to the Objection, the Debtors seek to modify and reduce Claim No. 8673 in amount from \$15,307.20 to \$5,674.40. Objection, at Exh. E-1.

### **ARGUMENT**

4. Federal Rule of Bankruptcy Procedure 3001(f) provides that a validly filed proof of claim “shall constitute prima facie evidence of the validity and amount of the claim.” FED. R. BANKR. P. 3001(f); *see also In re Schuler*, 354 B.R. 37, 42 (Bankr. W.D.N.Y. 2006). A party objecting to a validly filed proof of claim must present affirmative evidence to overcome the presumptive validity of a filed proof of claim. 9 COLLIER ON BANKRUPTCY at ¶ 3001.10 (15<sup>th</sup> ed. 1996).

5. In this case, Claim No. 8673 constitutes prima facie evidence of the validity and amount of Siemens’ claim against the Debtors’ estates. The invoices attached to Claim No. 8673 further support Siemens’ right to payment on Claim No. 8673 in the amount asserted thereon. Thus, the Debtors bear the burden of presenting *affirmative* evidence to demonstrate why Siemens’ claim is invalid.

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<sup>1</sup> Siemens and its affiliates have filed various other proofs of claim in the Debtors’ bankruptcy cases relating to separate and additional claims against the Debtors. This Response addresses only Claim No. 8673 and is without prejudice to Siemens’ various other claims.

6. While the Objection makes various allegations of possible reasons why Claim No. 8673 could be subject to modification, none of these general and unsupported allegations are specific to Claim No. 8673 and none are sufficient to overcome the prima facie validity arising pursuant to FED. R. BANKR. P. 3001(f). The mere statement that the Debtors disagree with the amount set forth in Claim No. 8673 is insufficient to rebut the presumptive validity of Siemens' claim. *See, e.g., In re White*, 168 B.R. 825, 828-29 (Bankr. D. Conn. 1994). Accordingly, unless and until the Debtors come forward with affirmative evidence sufficient to rebut the prima facie validity of Claim No. 8673 and the invoices attached thereto, the Objection must be overruled.

### **CONCLUSION**

WHEREFORE, Siemens plc (A&D Division) requests that this Court overrule the Debtors' Objection as it relates to Claim No. 8763, allow Siemens' Claim No. 8763 in the amount of \$15,307.20, and grant such other and further relief as this Court deems appropriate.

Dated: Richmond, Virginia  
July 12, 2007

/s/ Aaron G. McCollough  
Aaron G. McCollough (*pro hac vice* motion pending)  
McGUIREWOODS LLP  
One James Center  
901 East Cary Street  
Richmond, Virginia 23219  
Telephone: (804) 775-1000  
Facsimile: (804) 775-1061

*Counsel to Siemens plc (A&D Division)*

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